

## **REMARKS**

### **A. Status of the Claims**

The application was originally filed with claims 1-4. Claim 5 was added in a response to Office Action filed on January 28, 2005. Claims 2 and 4 are amended to specify that “glaucoma” in the methods of the invention is “primary open angle glaucoma.” Primary open angle glaucoma is described in the specification on page 1, for example. No new matter has been added as a result of this amendment. Therefore, claims 1-5 are currently pending.

### **B. The Claims are not Obvious in view of Bressi *et al.***

Claims 1-5 are rejected under 35 USC §103 as unpatentable over Bressi *et al.* Specifically, the Action alleges that one of skill in the art would have been motivated to use the claimed compound to treat the conditions set forth in the instant claims, because Bressi teaches that the claimed compound is a histone deacetylase (HDAC) inhibitor and that HDAC inhibitors can be used to treat conditions such as macular degeneration and diabetic retinopathy. The Action asserts that “substitution of one histone deacetylase inhibitor for another would have been obvious to a person skilled in the art in the absence of evidence to the contrary.” Applicant respectfully traverses.

Bressi teaches that certain HDAC inhibitors can be used to treat ocular angiogenic diseases (column 33, line 52). In contrast, the conditions and diseases recited in the instant claims are not angiogenic diseases. For example, dry AMD is a condition associated with drusen accumulation and atrophy of rod and cone photoreceptors in the outer retina (see page 3, lines 4-5 of the specification), and primary open angle glaucoma (POAG) involves changes to the optic nerve head topography (see page 1, lines 12-14 of the specification). Also, the methods of the invention are directed in part to treating cellular damage associated with diabetic retinopathy and retinal ischemia, not diabetic retinopathy and retinal ischemia. Therefore, substituting one HDAC inhibitor for another to treat a disease as taught by Bressi would not arrive at the claimed invention.

Treating an ocular angiogenic disease with an HDAC inhibitor does not make it obvious to treat an ocular disease that has a completely different pathophysiology. As discussed above, the ocular diseases and disorders recited in the instant claims have different pathophysiologies than the ocular angiogenic diseases as discussed by Bressi. Consequently, the instant claims are not obvious in view of Bressi, because Bressi does not provide any teaching that would motivate one skilled in the art to use an HDAC inhibitor to treat a non-angiogenic ocular disease.

In light of the foregoing arguments, Applicant respectfully requests that this ground of rejection be withdrawn.

### **C. Conclusion**

This is submitted to be a complete response to the outstanding Action. Based on the foregoing arguments, the claims are believed to be in condition for allowance; a notice of allowability is therefore respectfully requested.

The Examiner is invited to contact the undersigned attorney at (817) 615-5330 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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